S.B.CIVIL TRANSFER PETITION NO.11/2006

Smt. Indra Devi
vs.
Govind

DATE OF ORDER ::: 5.5.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Mr. DS Udawat, for the petitioner.
Mr. Chaitanya Gahlot, for the respondent.

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Heard learned counsel for the parties.

The petitioner, wife of respondent, has moved this application for transfer of the Petition No.13/2006 filed by the respondent under Section 9 of the Hindu Marriage Act for restitution of conjugal rights and which is pending in the District Judge, Rajsamand.

According to the petitioner, the marriage of the petitioner and respondent was solemnised on 4.3.2003 and a son was born out of the said wedlock and he is only one year's old. According to the petitioner, she was ill treated and because of that, the petitioner had to file a case under Section 498A IPC which is pending in the Court of Judicial Magistrate, Barr, District Pali. The petitioner is living with her parents at Raipur in District Pali and

the nearest court which can try the petition under Section 9 of the Hindu Marriages Act is the Court of Additional District Judge, Sojat. It is submitted that the petitioner cannot contest the case at Rajsamand which is far away from the petitioner's place of residence i.e. Raipur. It is also submitted that the petitioner has reasonable apprehension against the respondent.

Learned counsel for the respondent vehemently submitted that the respondent is para teacher and it is difficult to take leave from his teaching job and further, it will be very difficult for him to contest the case one at Barr and one at Sojat. It is also submitted that the respondent is willing to keep the petitioner with him and for that purpose, he moved this application. It is also submitted that there is no threat from the respondent.

I have considered the rival submissions and perused the facts of the case.

In view of the facts mentioned in the transfer petition and the facts that the petitioner is young lady having a child of one year age only and she is residing at Raipur, District Pali and one criminal case is pending at Pali District though it is at Barr, therefore, it will be appropriate in view of the allegations that the petition filed by respondent be heard at a place near to the petitioner's place of residence.

So far as pending criminal case at Barr is concerned, the respondent can well attend the same case at Barr or may

move an application for transfer of the criminal case from Barr to Sojat.

In view of the above, this transfer petition is allowed, the Petition no.13/2006 (Govind vs. Smt. Indra) filed by the respondent pending in the Court of District Judge, Rajsamand is hereby withdrawn and is transferred to the Court of Additional District Judge, Sojat for deciding the same in accordance with law.

Both the parties are directed to remain present in the Court of Additional District Judge, Sojat on 26.5.2006.

(PRAKASH TATIA), J.

S.Phophaliya